

IN RE: PETITION FOR ZONING VARIANCE
ES York Road, 100' S
Talbot Avenue
2331 York Road
8th Election District
4th Councilmanic District
2331 Associates Ltd. Partnership
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-83-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance from Section 203.3C.1 to permit a free standing sign along a principal arterial of 35 feet per side (2 sides) in lieu of 15 square feet per side, in accordance with Petitioner's Exhibit 1.

The Petitioner was represented by S. Eric DiNenna, Esquire, who appeared and testified. Appearing on behalf of the Petitioner was Mr. John O. Simons, Mr. L. E. Borunda and Ms. Brenda Flagg. There were no Protestants.

Testimony and evidence indicated that the subject property known as 2331 York Road, consists of 1.494 acres +/- split zoned R.O. and D.R. 3.5, and is improved with a Class B Office Building.

Testimony indicated that the Petitioner desires to replace the existing identification sign which is currently located on the northwest corner of the subject site with the sign depicted on Petitioner's Exhibit 2. The Petitioner also desires to relocate the new sign approximately 65 feet south along York Road, from the location indicated on Petitioner's Exhibit 1.

Testimony also indicated that the speed limit on this section of York Road is 40 miles per hour and that the size of the requested signage is necessary to safely identify the site.

Testimony further indicated that the requested signage, if granted in part, will be consistent with the surrounding community and will not adversely impact on the health, safety or general welfare of the community.

S. Eric DiNenna, Esquire, proffered that the Petitioner will suffer an undue hardship or practical difficulty should the requested variance be denied.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

Upon consideration of the testimony and evidence presented, it is the opinion of the Zoning Commissioner that the Petitioner's sign request is excessive for this location. However, it is clear from the testimony that if the variance is granted, in part, such use as proposed would not be contrary to the spirit and intent of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty and unreasonable hardship would result if the requested variances were not granted in part. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested, if granted in part, will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 17th day of Oct., 1989 that the Petition for a Zoning Variance from Section 203.3C.1 to permit a free standing sign along a principal arterial of 35 feet per side (2 sides) in lieu of the 15 square feet per side is hereby DENIED, in part, as to the requested square footage, and,

IT IS FURTHER ORDERED, that the Petition for Zoning Variance shall be GRANTED, in part, to permit a total of 50 square feet of signage, 25 square feet per side, and,

IT IS FURTHER ORDERED, that the Petitioner shall be permitted to locate the requested sign 65 feet (+/- 10 feet) south of the location, indicated on Petitioner's Exhibit 1, subject, however, to the following restriction which is a condition precedent to the relief granted herein:

- 1) The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the

Petitioner would be required to return, and be responsible for returning, said property to its original condition.

J. Robert Haines
Zoning Commissioner
for Baltimore County

JRH/emn

cc: Peoples Counsel

cc: S. Eric DiNenna, Esquire, P.O. Box 10508, Towson, Maryland 21204

cc: Mr. John O. Simons, 2331 Associates Ltd. Partnership, 57 W. Timonium Road, Timonium, Maryland 21093

cc: Mr. L. E. Borunda, 2301 Greenspring Drive, Timonium, Maryland 21093

cc: Ms. Brenda Flagg, 2331 York Road, Suite 103, Timonium, Md. 21093

ORDER RECEIVED FOR FILING

Date 10/17/89 By J. Robert Haines

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Date 10/17/89 By J. Robert Haines

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Date 10/17/89 By J. Robert Haines

-4-

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 203.3C.1 to permit a free-standing sign along a principal arterial of 35 feet per side (2 sides) in lieu of 15 square feet per side.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

1. Number of tenants;
2. Informational exposure along York Road;
3. Such other reasons to be presented at hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Legal Owner(s):
(Type or Print Name) 2331 Associates Limited Partnership
(Type or Print Name) John Simons

Signature: Signature:
Address: Address:
City and State: City and State:

Attorney for Petitioner: S. Eric DiNenna, Esquire
(Type or Print Name) 57 W. Timonium Road
(Type or Print Name) Address Phone No.

Signature: Signature:
Address: Address:
City and State: City and State:

P. O. Box 10508 Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Address: 2331 Associates Limited Partnership
City and State: Towson, MD 21204
Attorney's Telephone No. (301) 296-6820 Name, P. O. Box 10508
Address: Towson, MD 21204-0508 Phone No. 296-6820

ORDERED By The Zoning Commissioner of Baltimore County, this 17 day

of 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore

County, on the 17th day of 1989, at 9:30 o'clock

A.M. J. Robert Haines
Zoning Commissioner of Baltimore County

(over)

KIDDE CONSULTANTS, INC.
Subsidiary of Kidde, Inc.

DESCRIPTION OF A 1.35 + ACRE PARCEL
PROPERTY OF JO ANN KEIL
ON YORK ROAD NEAR TALBOT AVENUE
8TH TAX DISTRICT
BALTIMORE COUNTY, MARYLAND

BEGINNING for the same at a point, said point being in the easterly right of way line of York Road, an 80 foot right of way, at a point South 18 degrees 03 minutes 34 seconds East 100.83 feet along of the prolongation of said right of way to intersect with the southerly prolonged right of way of Talbot Avenue, a 40 foot right of way, thence departing said point and running with the second through fourth lines of property described in a deed dated 14 May, 1984 from John H. Keil and Jo Ann Keil to Jo Ann Keil and recorded among the Land Records of Baltimore County, Maryland, in Liber 6747 at Folio 007, as now surveyed, viz: (1) North 79 degrees 31 minutes 26 seconds East 293.52 feet, (2) South 10 degrees 28 minutes 34 seconds East 210.00 feet, and (3) South 79 degrees 31 minutes 28 seconds West 265.56 feet to a point on the easterly right of way of aforesaid York Road, thence departing said point and binding on the said easterly right of way of York Road; (4) North 18 degrees 03 minutes 34 seconds West 211.85 feet to the point and place of beginning.

CONTAINING 1.35 + acres of land as now surveyed by Kidde Consultants, Inc.

BEING or intended to be the same parcel of land as described in a deed dated 14 May, 1984 from Joan H. Keil and Jo Ann Keil to

KIDDE CONSULTANTS, INC.
Subsidiary of Kidde, Inc.

Description
1.35 Acres Parcel - Keil
December 31, 1987
Page 2

Jo Ann Keil and recorded among the Land Records of Baltimore County, Maryland in Liber 6747 at Folio 007.

SUBJECT to the following easements (1) a variable width sanitary sewer easement along York Road as recorded in Liber 5092 at Folio 545, (2) a water meter easement along York Road (recording date and number unknown), (3) a storm water management maintenance easement (recording date and number unknown), (4) a drainage and utility easement along south property line (recording date and number unknown).

TEP/pek KCI Job Order No. 01-87008 December 31, 1987

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 8th Date of Posting 9/12/89
Posted for Variance
Petitioner: 2331 Associates Limited Partnership
Location of property: 65 York Rd., 100' S Talbot Ave.
Location of Sign: York Rd. 12' E. of York Rd.
Remarks: on property of Petitioner
Posted by: J. Robert Haines Date of return: 9/25/89
Number of Signs: 1

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner

July 31, 1989

NOTICE OF HEARING

Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 90-83-A
ES York Road, 100' S of Talbot Avenue
2331 York Road
8th Election District - 4th Councilmanic
Petitioner(s): 2331 Associates Limited Partnership
HEARING SCHEDULED: FRIDAY, SEPTEMBER 8, 1989 at 9:30 a.m.

Variances To permit a free-standing sign along a principal arterial of 35 feet per side (2 sides) in lieu of the 15 square feet per side.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

JRH/eks

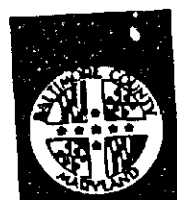
cc: 2331 Associates Limited Partnership
S. Eric DiNenna, Esq.
File

MICROFILMED

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Flaines
Zoning Commissioner

DATE 8/22/89



Dennis F. Rasmussen
County Executive

2331 Associates Limited Partnership
57 W. Timonium Road
Timonium, Maryland 21093

Re: Petition for Zoning Variance
CASE NUMBER: 90-83-A
ES York Road, 100' S of Talbot Avenue
2331 York Road
8th Election District - 4th Councilmanic
Petitioner(s): 2331 Associates Limited Partnership
HEARING SCHEDULED: FRIDAY, SEPTEMBER 8, 1989 at 9:30 a.m.

Gentlemen:

Please be advised that \$120.29 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

and a post set(s), there is a fee of \$120.29 for each such set.

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF FINANCE - REVENUE DIVISION
TANGIBLE CASH RECEIPT

No. 077304

DATE 8/22/89 ACCOUNT R-01-615-000

AMOUNT \$120.29

ERIC D'NENNA

0-83-A Item 512

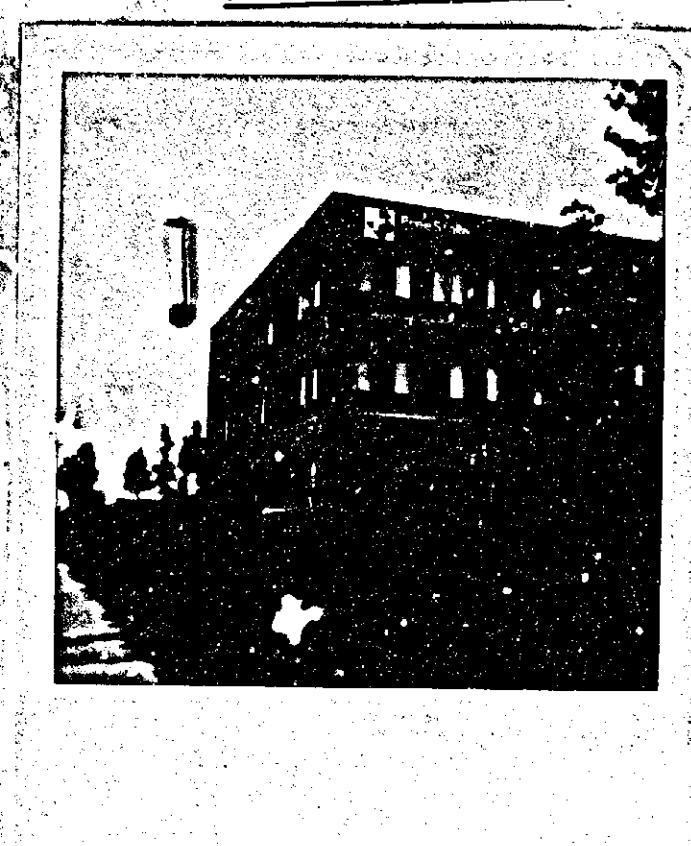
Post/Adv.

B 8130*****12029** 2727

VALIDATION OR SIGNATURE OF CASHIER

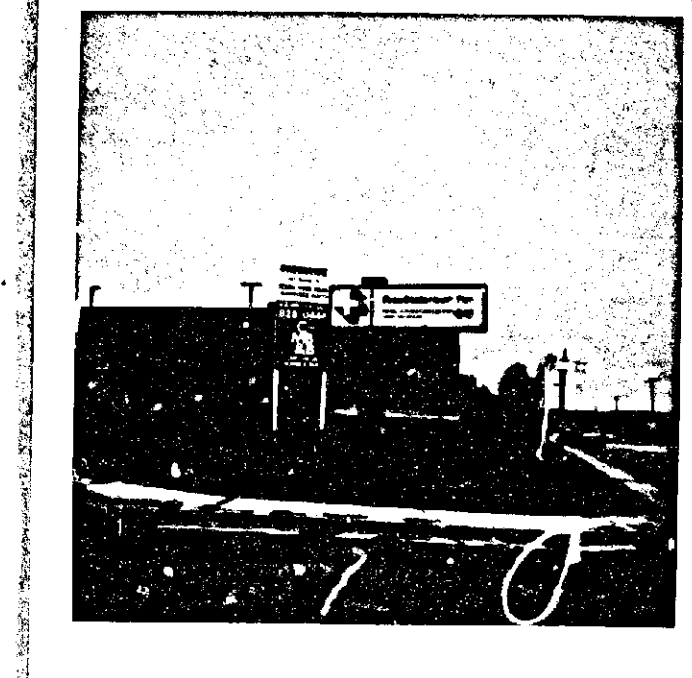
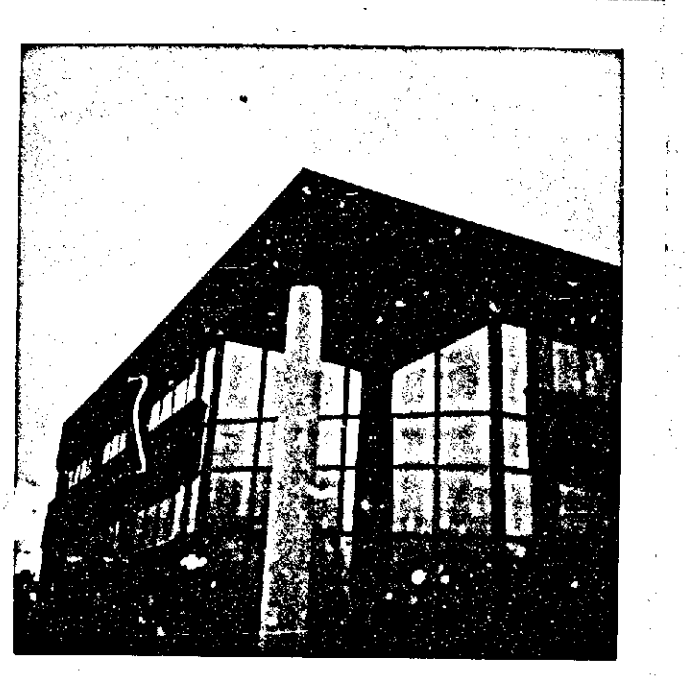
AGENCY: TOWSON OFFICE

PETITIONER(S) EXHIBIT (4)



MICROFILMED

PETITIONER(S) EXHIBIT (4)



MICROFILMED

PETITIONER(S) EXHIBIT (5)



PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

JOHN O. SIMMONS 2331 ASSOCIATES
LUIS E. BORUNDA 2301 GREENBRIAR DR.
BRENDAN FLAHERTY 2331 York Rd Suite 103
KATHLEEN M. VAN COTT/BROKER 8525 Route 702 Suite 21043

CERTIFICATE OF PUBLICATION

TOWSON, MD., August 18, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on August 12, 1989.

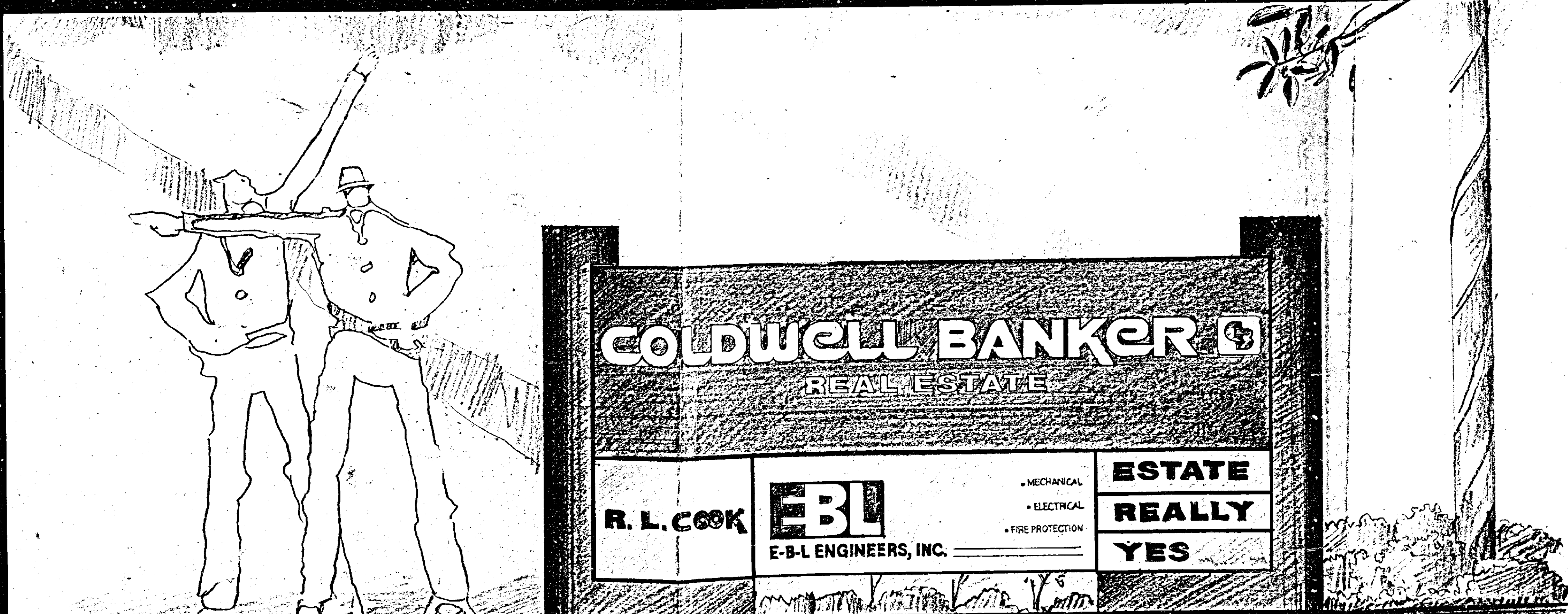
THE JEFFERSONIAN
TOWSON TIMES,

S. Zeke Orlov

Publisher

PO 15186
NY 10310-94
CO 90-83-A
price \$95.29

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the proposed zoning variance in Room 103 of the County Office Building, located at 111 W. Chesapeake Avenue, Towson, Maryland 21204, on Friday, September 8, 1989, at 9:30 a.m.
Petitioner for Zoning Variance: Case Number: 90-83-A
2331 York Road, 100' S of Talbot Avenue
2331 York Road
8th Election District
4th Councilmanic
Petitioner(s): 2331 Associates Limited Partnership
Hearing Date: Friday, September 8, 1989 at 9:30 a.m.
Variances to permit a building with a total area of 30,000 sq. ft. to be used as a retail store on the site of the 15,000 sq. ft. site.
The Zoning Commission may be requested to grant a zoning variance for a period of 180 days from the date of the hearing. The Zoning Commission may request a stay of the hearing and may request a stay of the hearing for good cause shown. Such request must be in writing and received in the office by the date of the hearing or before or presented at the hearing.
J. Robert Flaines
Zoning Commissioner of Baltimore County
TOWSON, Aug. 17, 1989



GVA
George Vaeth
Associates, Inc.
architect
5501 Twin Knolls Road Suite 108
Columbia, Maryland 21045

MICROFILMED
FREE STANDING SIGN ELEVATION
36 S.F. EACH SIDE/FACE
SCALE 1" = 1' - 0"

FEB 7 4 89
PLANLIST

PETITIONER'S
EXHIBIT 2

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: June 22, 1989
FROM: Robert W. Bowling, P.E.
RE: Zoning Advisory Committee Meeting
for June 13, 1989

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 493, 514, 517, 520, 521, 522, 524, 528, 529, 531, and 532.

For Item 511, the minimum panhandle width for one lot is 20 feet, not 10 feet as shown on the plan.

For Items 513, 516 and 533 the previous County Review Group Comments still apply.

For Item 519, all lots must have in-fee frontage to a public road.

For Item 530, comments are attached.

ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

Encl.

48

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: August 31, 1989
Zoning Commissioner
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: 2331 Associates Ltd. Partnership, Item 513
Zoning Petition No. 90-83-A

The petitioner requests a variance to permit a free-standing sign along a principal arterial of 35 feet per side (two sides) in lieu of 15 feet per side. In reference to this request, staff offers the following comments:

- The site plan submitted by the applicant is unsuitable and unacceptable for review. The plan is faded and remarked and shows existing vs. previous site conditions, and represents the May 22, 1987 CRG. An updated clear and legible plan should be submitted for review.
- A prior sign variance was granted (88-514-A) for this project. A sign detail submitted in that case indicates that there was and is sufficient room for additional information to be added onto the existing sign.
- Additional signage on York Road would add to the existing visual clutter along this principal arterial. The existing signage as previously granted appears adequate and any addition to this is unwarranted.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

PK/JL/se

SEP 0 4 1989



Maryland Department of Transportation
State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

July 26, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Att: Mr. James Dyer

Re: Baltimore County
2331 Associates Limited
Partnership
Zoning Meeting of 6-13-89
E/S York Road (MD 45)
100' South of Talbot Ave.
(Item #513)

Dear Mr. Haines:

After reviewing the submittal for a variance to permit a free standing sign along a principal arterial of 35 feet per side (2 sides) in lieu of the 15 square feet per side, we have the following comment.

We have forwarded this plan to our Highway Beautification Section, c/o Mary Benner (333-1642) for all comments relative to zoning.

Very truly yours,

Creston J. Mills, Jr., Chief
Engineering Access Permits
Division

LB:maw

cc: Kidde Consultants, Inc.
Mr. J. Ogle
Ms. M. Benner (w-attachment)

RECEIVED
AUG 1 1989

ZONING OFFICE

My telephone number is (301) 333-1350 (Fax Number 333-1041)

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-482-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717



Maryland Department of Transportation
State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

August 25, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Sign-Location E/S York Rd.,
(MD. 45) 100' South of Talbot
Avenue (Item #513)

Dear Mr. Haines:

This letter is in response to the one written to you by Mr. Creston J. Mills, Jr., Chief, Bureau of Access Permits, dated June 13th, concerning the placing of a sign at the above location.

An inspection was made on August 21, 1989, by Mr. George Dawson, the Highway Beautification Inspector and found he has no objection to placing the sign as per plans submitted.

The sign cannot be placed on or overhang the State's Right-of-Way.

If you need any further assistance, please do not hesitate to contact this office.

Sincerely,

Mary J. Benner
Mary J. Benner
Acting Chief
Highway Beautification
Section

MJB:jak

cc: Mr. Creston J. Mills, Jr.

My telephone number is (301) 333-1641

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-482-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

July 24, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

RECEIVED
AUG 3 1989

ZONING OFFICE

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 493, 511, 513, 516, 517, 519, 520, 521, 522, 524, 528, 529, 530, 531, 532, and 533.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Associate II

MSF/Lab

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2586
(301) 887-4500

JUNE 14, 1989

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: 2331 ASSOCIATES LIMITED PARTNERSHIP
Location: #2331 YORK ROAD
Item No.: 513 Zoning Agenda: JUNE 13, 1989

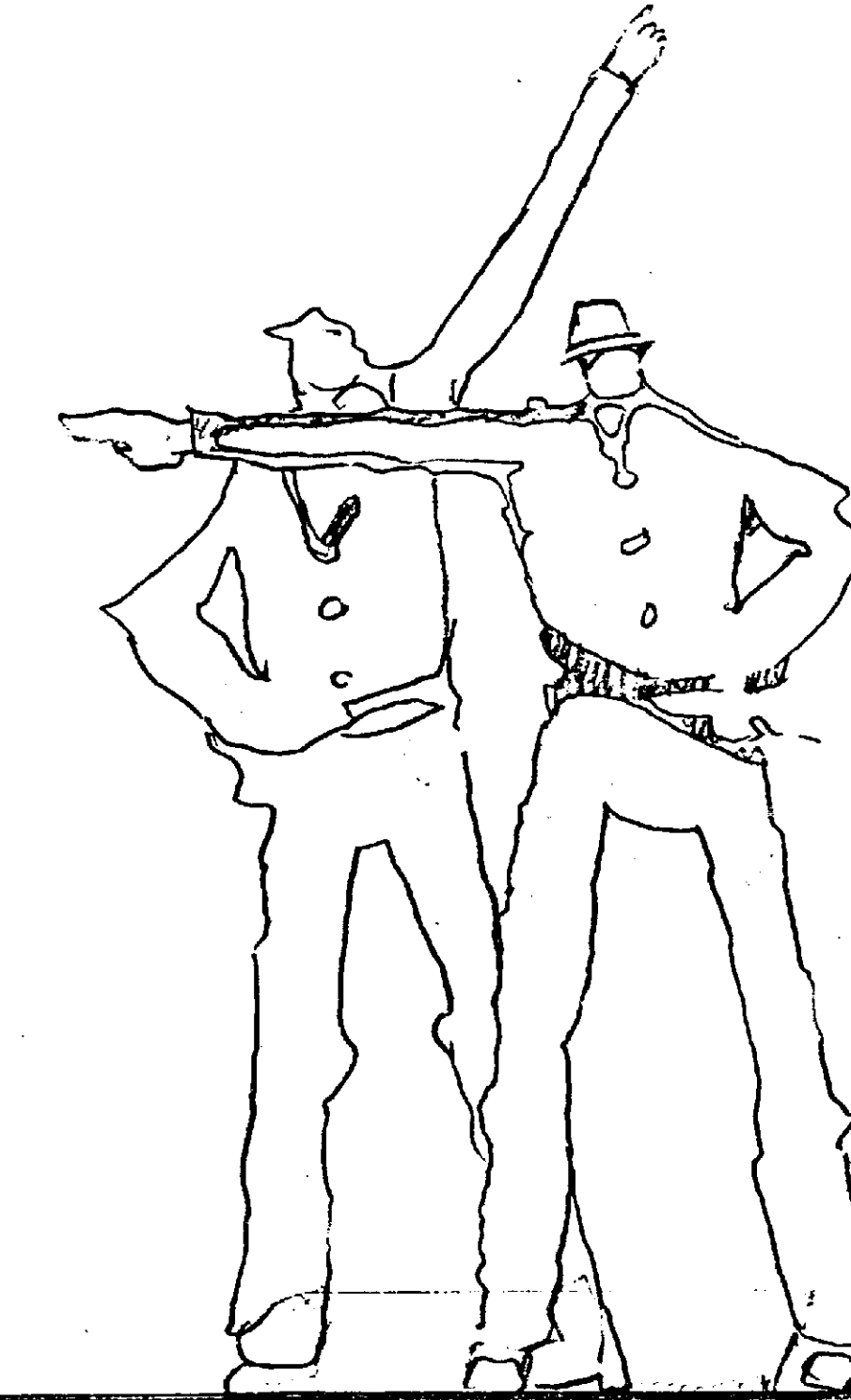
Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KER



COLDWELL BANKER
REAL ESTATE

R. L. COOK

EBL
E-B-L ENGINEERS, INC.

STATE FARM
INSURANCE
REALLY
YES

PARKING

GVA
george vaeth
associates, inc.
architect
5501 twin knolls road suite 108
columbia, maryland 21045

FREE STANDING SIGN ELEVATION
36 S.F. EACH SIDE/FACE
SCALE 1" = 1' - 0"

PETITIONER'S
EXHIBIT 3

